

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ALEFYSH TSMKH SHMW)	CV. NO. 06-00427 JMS-BMK
)	
Plaintiff,)	FINDING AND
)	RECOMMENDATION THAT
vs.)	PLAINTIFF'S CASE BE
)	DISMISSED
STATE OF HAWAII,)	
)	
Defendant.)	
)	
_____)	

FINDING AND RECOMMENDATION THAT PLAINTIFF'S CASE BE
DISMISSED

Plaintiff Alefysh Tskmh Shmw filed an action against Defendant State of Hawaii on August 7, 2006. Pursuant to Rule 16(a) of the Federal Rules of Civil Procedure and Local Rule 16.2, a scheduling conference was held on November 6, 2006, at 9:00 a.m. Plaintiff failed to appear at the conference and failed to file a scheduling conference statement as required by Local Rule 16.2(b). As a result, the Court issued an order directing Plaintiff to appear before the Court on December 8, 2006, to show good cause, if any, why the case should not be dismissed. Plaintiff failed to appear on this date.

A district court must weigh five factors to determine whether to dismiss a case for failure to comply with a court order: (1) the public's interest in

expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendant; (4) the public policy favoring the disposition of cases on their merits; and (5) the availability of less drastic sanctions. Bautista v. Los Angeles County, 216 F. 3d 837, 841 (9th Cir. 2000).

Balancing the five factors in this case, the Court finds that dismissal of the Complaint to be an appropriate sanction in this case.

Consequently, the Court FINDS and RECOMMENDS that this action be DISMISSED.

IT IS SO FOUND AND RECOMMENDED.



/s/ Barry M. Kurren
United States Magistrate Judge
Dated: December 8, 2006

Alefush Tsmkh Shmw v. State of Hawaii; FINDING AND RECOMMENDATION THAT PLAINTIFF'S CASE BE DISMISSED; Cv. No. 06-00427 JMS-BMK.